

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA

## DEFENDANT NURSE STEWART'S ANSWER

COMES NOW Defendant Nurse Linda Stewart and, and answer the Plaintiff's Complaint as follows:

## Answer

Defendant Nurse Stewart denies each and every allegation made by the Plaintiff, Antonio Martinez, and demands strict proof thereof. Nurse Stewart denies that she acted, or caused anyone to act, in such a manner so as to deprive the Plaintiff of his constitutional rights.

## **Affirmative Defenses**

1. The Plaintiff's Complaint, separately and severally, fails to state a claim upon which relief may be granted.
2. Nurse Stewart, in her individual capacity, is entitled to qualified immunity from the Plaintiff's claims.
3. Nurse Stewart, in her official capacity, is entitled to absolute immunity from the Plaintiff's claims pursuant to the Eleventh Amendment to the United States Constitution.
4. Nurse Stewart, in her official capacity, is not a "person" under 42 U.S.C. § 1983.

5. The Plaintiff's claims are barred by the Prison Litigation Reform Act because he has failed to exhaust available administrative remedies and because he has not suffered an injury that is greater than de minimus.

6. Plaintiff fails to allege any affirmative causal link between the alleged acts of Nurse Stewart and any alleged constitutional deprivation or Nurse Stewart's direct participation in any alleged constitutional violation.

7. Nurse Stewart is not liable based upon *respondeat superior* theories of liability.

8. The Plaintiff cannot prove a violation of his rights under the Eighth or Fourteenth Amendments to the United States Constitution.

9. The Plaintiff did not have a "serious" medical need.

10. Nurse Stewart was not deliberately indifferent in any respect.

11. Nurse Stewart reserves the right to add additional defenses upon a complete investigation of Plaintiff's claims, completion of any discovery allowed, and if any further pleading is required or allowed by the Court.

Respectfully submitted this 8th day of May, 2006.

**s/Amanda Kay Morgan**  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this the 8th day of May, 2006, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that I have mailed a true and correct copy of the foregoing by United States Mail, postage prepaid, to the following non-CM/ECF participant:

Antonio Martinez  
Lee County Detention Center  
PO Box 2407  
Opelika, AL 36801

**s/Amanda Kay Morgan**  
OF COUNSEL